



West Virginia Senate

Committee on the Judiciary

Minutes for FEBRUARY 10, 2020, 3:00 PM

Pursuant to the call of the Chair, the Senate Committee on the Judiciary met on February 10, 2020, 3:00 PM in Room 208-W.

Members present: Senators Trump, Weld, Azinger, Clements, Cline, Maynard, Pitsenbarger, Rucker, Smith, Baldwin, Hardesty, Jeffries, Lindsay, Romano, Woelfel

Members absent: Senators Takubo, Beach

A silent roll call being taken, the presence of a quorum was established.

On motion of Senator Weld, the minutes of the previous meeting were approved.

Chairman Trump moved **S. B. 733** to the top of the agenda

S. B. 733 - Recognizing political party status.

Tom Smith, Chief Counsel, explained the bill, and responded to questions.

On motion of Senator Weld, the committee recommended the bill for passage.

S. B. 554 - Relating to termination, expiration, or cancellation of oil or natural gas leases.

Laura Goins, Counsel, explained the bill, the purpose of the proposed committee substitute for committee substitute, and responded to questions.

On motion of Senator Weld, the committee agreed to the committee substitute for committee substitute.

On motion of Senator Weld, the committee reported the committee substitute for committee substitute to the full Senate with the recommendation that it do pass.

S. B. 732 - Authorizing fee payment and expense reimbursement for attorneys who participate on court teams established by Supreme Court of Appeals.

Laura Goins, Counsel, explained the bill, and responded to questions.

On motion of Senator Weld, the committee recommended the bill for passage, but first be referred to the Committee on Finance.

S. B. 528 - Creating Uniform Worker Classification Act.

Chris Alder, Counsel, explained the bill, the purpose of the proposed committee substitute, and responded to questions.

With leave of the committee, Kim Geary, House Counsel, FedEx Ground, was administered the oath prescribed by Senate Rule 28a by Chairman Trump, addressed the committee, and responded to questions. (See attached oath.)

With leave of the committee, David McMahon, Attorney, was administered the oath prescribed by Senate Rule 28a by Chairman Trump, addressed the committee, presented a handout, and responded to questions. (See attached oath.)

At the request of Senator Clements, unanimous consent being granted, the committee laid over **S.B. 528**.

On motion of Senator Woelfel, the committee requested a fiscal note be requested for the committee substitute for **S. B. 528**.

On Motion of Senator Weld the committee adjourned.



Charles S. Trump IV
Chairman



Beverly Douglas
Analyst/Clerk

The Senate of West Virginia



Testimony taken this 10th day of February, 2020, in
the Senate Committee on the Judiciary.

"I solemnly swear (or affirm) that the testimony I shall give shall be
the truth, the whole truth, and nothing but the truth, so help me
God."

Kim Geary

Print Witness Name

[Signature]

Sign Witness Name

Oath was administered by:

Charles S. Trump

Print Member Name

Charles S. Trump

Sign Member Name



The Senate of West Virginia

Testimony taken this 10th day of February, 2020, in
the Senate Committee on the Judiciary.

"I solemnly swear (or affirm) that the testimony I shall give shall be
the truth, the whole truth, and nothing but the truth, so help me
God."

David McMahon

Print Witness Name

[Signature]

Sign Witness Name

Oath was administered by:

Charles S. Trapp

Print Member Name

[Signature]

Sign Member Name

GET THE FACTS ON **MISCLASSIFICATION**

UNDER THE FAIR LABOR STANDARDS ACT Employee or Independent Contractor?

The Fair Labor Standards Act (FLSA) provides minimum wage and overtime pay protections to nearly all workers in the U.S. Some employers incorrectly treat workers who are employees under this federal law as independent contractors. We call that "misclassification." If you are misclassified as an independent contractor, your employer may try to deny you benefits and protections to which you are legally entitled.

Please refer to **Fact Sheet 13** for more information on the factors used to determine whether you're an employee or an independent contractor.



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Receiving a 1099 does not make you an independent contractor under the FLSA.



Even if you are an independent contractor under another law (for example, tax law or state law), you may still be an employee under the FLSA.



Signing an independent contractor agreement does not make you an independent contractor under the FLSA.



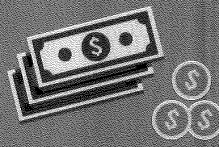
Having an employee identification number (EIN) or paperwork stating that you are performing services as a Limited Liability Company (LLC) or other business entity does not make you an independent contractor under the FLSA.



Employers may not misclassify an employee for any reason, even if the employee agrees.



You are not an independent contractor under the FLSA merely because you work offsite or from home with some flexibility over work hours.



Whether you are paid by cash or by check, on the books or off, you may still be an employee under the FLSA.



"Common industry practice" is not an excuse to misclassify you under the FLSA.